

FILED

OCT 24 1996

BOARD OF PHARMACY

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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF PHARMACY  
DOCKET NO.

IN THE MATTER OF	)	
	)	Administrative Action
SAMY AWAD, OWNER	)	
AND R.P. IN CHARGE	)	FINAL ORDER
OF PASSAIC COMMUNITY	)	
PHARMACY	)	
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This matter was opened to the New Jersey State Board of Pharmacy upon Samy Awad's request for a hearing in response to an amended uniform penalty letter dated April 8, 1996, charging respondent with violations of the Board of Pharmacy enabling Act and regulations promulgated pursuant to that Act.

A hearing in the matter was held before the Board of Pharmacy on September 11, 1996. Respondent was represented by Kevin D. Marino, Esq. Rochelle B. Smith, Deputy Attorney General, appearing, presented the matter to the Board. Susan Thompson, Enforcement Bureau Investigator, testified on behalf of the State; no other witnesses were called by either party.

Ms. Thompson stated that upon presentation to respondent of the prescription and store coupon obtained from a nearby doctor's office, respondent offered her a lower price than he routinely charged for that dispensing. Further, she stated that respondent gave her two receipts, one for the lesser price charged and one for the price respondent said was the routine price.

The following documents were received in evidence.

- (1) S-1, Amended Penalty Letter dated April 8, 1996.

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(2) S-2, Letter of correction for typographical errors in Amended Penalty Letter citations, authored by D.A.G. Smith.

(3) S-3, Passaic Community Pharmacy advertisement containing "15% off" coupon.

(4) S-4, Pharmacy Receipt for Prescription with computer generated label affixed to receipt.

(5) S-5, Handwritten Pharmacy Receipt for Prescription.

At the conclusion of the hearing, the Board moved into executive session for deliberation, and then returned to public session to announce its decision on the record. Following are the Board's Findings of Fact and Conclusions of Law.

#### FINDINGS OF FACT

1. On or about October 1, 1993 Samy Awad was the owner and pharmacist in charge of Passaic Community Pharmacy, Inc.

2. On or about October 1, 1993, Susan Thompson, who at the time was clearly under the age of 62, presented to respondent a prescription and a coupon for 15% off all store purchases.

3. Respondent dispensed the prescription to Ms. Thompson for \$18.70. Respondent gave two receipts to Ms. Thompson; one had a computer generated label affixed to it indicating a prescription price of \$22.19, the other was handwritten and read "18.70 paid in full." Both receipts were for prescription number 5111.

4. Respondent told Ms. Thompson that not only had she saved money with the coupon, she could now make money when she sent the computer generated receipt to her insurance company.

5. Respondent, by his own admission, failed to display on the pharmacy premises the C.D.S. registration, the name of the R.P. in charge, and his license renewal, and failed to report a change of the R.P. in charge.

6. Ms. Thompson was not directed by the prescriber or his agent to fill her prescription at Passaic Community Pharmacy.

CONCLUSIONS OF LAW

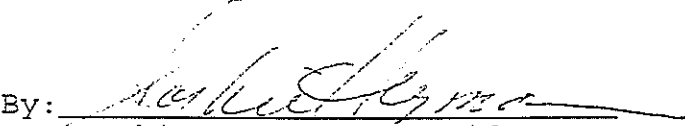
Respondent offered a discount in connection with the sale of drugs to a person under the age of 62 in violation of N.J.S.A. 45:14-12(f). Further, respondent provided two receipts for a dispensing; one for the discounted price actually paid and one reflecting the routine price charged by Passaic Community Pharmacy for the purpose of providing the patient with an opportunity for reimbursement in excess of the actual price paid. Respondent's conduct in issuing a receipt for monies greater than the amount actually paid constitutes professional misconduct and the use of fraud, dishonesty, deception and misrepresentation contrary to N.J.S.A. 45:1-21(e) and (b).

Finally, respondent has failed to properly post his license renewal, the pharmacy CDS registration and the name of the Pharmacist in-charge as required by N.J.S.A. 8:65-1.2(c) and N.J.S.A. 45:14-10 and he has failed to notify the Board of a change by the R.P. in-charge as required in N.J.A.C. 13:39-3.8.

ACCORDINGLY, IT IS ON THIS 23 DAY OF OCTOBER, 1996,  
ORDERED:

1. Respondent Samy Awad shall pay a civil penalty in the sum of \$1,700.00 within 30 days of receipt of the within Order.

STATE BOARD OF PHARMACY

By:   
Sophie Heymann, President